



## Illinois Department of Corrections

### Administrative Directive

Number:

**03.01.305**

Title:

**Accommodation Requests or Grievance Based on Disability**

Effective:

**7/1/2020**

**Authorized by:**

*[Original Authorized Copy on File]*

**Rob Jeffreys**  
Acting Director

**Supersedes:**

03.01.305 effective 9/1/2019

**Authority:**

42 U.S.C. 12101 et seq.  
29 CFR Part 1630  
730 ILCS 5/3-2-2 and 775 ILCS 5/  
775 ILCS 5/1 et seq.  
820 ILCS 260/10

**Related ACA Standards:**

5-ACI-1C-01 and 07

**Referenced Policies:**

**Referenced Forms:**

DOC 0237 – Annual Disability Accommodation Report  
DOC 0238 – Applicant or Employee Request for Reasonable Accommodation  
DOC 0430 – Grievance - Discrimination Based on Disability or the Denial of a Request for Reasonable Accommodation

#### **I. POLICY**

The Department shall evaluate requests for reasonable accommodations to known physical or mental limitations of an otherwise qualified job applicant or employee with a disability or affected by medical or common conditions related to pregnancy and investigate grievances based on disability.

#### **II. PROCEDURE**

##### **A. Purpose**

The purpose of this directive is to provide instructions to staff for processing applicant or employee requests for reasonable accommodation based on a disability or a medical or common condition of pregnancy and grievance procedures for denial of request.

##### **B. Applicability**

This directive is applicable to all correctional facilities, offices, programs and parole services within the Department.

##### **C. Facility Reviews**

A facility review of this directive shall be conducted at least annually.

##### **D. Designees**

Individuals specified in this directive may delegate stated responsibilities to another person or persons unless otherwise directed.

##### **E. Definitions**

For the purpose of this Administrative Directive, the following definitions shall apply:

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ADA – The Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

Chief Administrator – the highest ranking official of a correctional facility or program site; the Assistant to the Director for the Central Screening Office or for all other offices, the Deputy Director of the appropriate division or the Chief Deputy Director of the Department.

Department ADA Coordinator – the person or persons designated by the Director to coordinate efforts of the Department in carrying out its responsibilities under Title II of the Americans with Disabilities Act of 1990 and ensure employees, contractors and volunteers have access to reasonable accommodations as determined appropriate on a case-by-case basis.

Direct threat - a significant risk of substantial harm to the health or safety of any individual that cannot be eliminated or reduced by reasonable accommodation.

Disability – a physical or mental impairment that substantially limits one or more major life activities of an individual, a record of such an impairment or being regarded as having such impairment.

Grievant – an applicant or employee with a disability who files a grievance.

Interviewing officer – the Chief Administrator or Duty Administrative Officer in charge of the interview who has the authority to grant or deny an applicant's request for reasonable accommodations in the application process.

Pregnancy – for the purpose of this directive shall mean a condition of pregnancy, childbirth or a medical or common condition related to pregnancy or childbirth.

Reasonable accommodation – modifications or adjustments to the job application process and the work environment that enable qualified applicants or employees to be considered for a position, to perform the essential functions of a position and to enjoy equal benefits and privileges of employment.

Undue hardship – significant difficulty or expense in, or resulting from, the provision of the accommodation such as an accommodation that would be unduly costly, extensive, substantial or disruptive.

Working days – Monday through Friday, excluding State holidays.

## **F. General Provisions**

1. Nothing in this directive shall preclude an employee from filing a complaint with the Illinois Department of Human Rights or pursuing grievances in accordance with applicable Personnel Rules, collective bargaining agreements or rules of other regulatory agencies.
2. Applicants and employees shall have access to this directive and shall, upon request, be provided with a copy. Copies of this directive and applicable forms shall be available at all Department facilities and offices, locations where applicants are tested or interviewed and from the Department ADA Coordinator.
3. Upon request, applicants and employees shall be provided assistance as determined necessary by the Department in complying with the procedures set forth in this directive.
4. Reasonable accommodations may include, but are not limited to:
  - a. Making existing facilities readily accessible to and usable by individuals with disabilities.
  - b. Job restructuring or part-time or modified work schedules.

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- c. Reassignment to a vacant position.
  - d. Acquisition or modification of equipment or devices.
  - e. Appropriate adjustment or modification to examinations, training materials or policies.
  - f. The provision of qualified readers or interpreters.
  - g. Other similar accommodations for applicants or employees with disabilities.
5. Additional reasonable accommodations for pregnancy may include, but shall not be limited to:
- a. More frequent or longer bathroom breaks;
  - b. Breaks for increased water intake;
  - c. Breaks for periodic rest;
  - d. Reasonable breaks for expressing breast milk, regardless of length or frequency;
  - e. Private, non-bathroom space for expressing milk or breastfeeding;
  - f. Alternative seating;
  - g. Assistance with manual labor;
  - h. Light duty assignment;
  - i. Temporary transfer to a less strenuous or hazardous position;
  - j. Provision of an accessible worksite;
  - k. Training materials or policies;
  - l. Time off to recover from conditions related to pregnancy; and
  - m. Leave necessitated by pregnancy.

**NOTE:** All employees reporting a pregnancy shall be informed of the option to request a reasonable accommodation. Illinois Department of Human Rights' notice, "PREGNANCY and your RIGHTS in the WORKPLACE" shall be posted where notices to employees are customarily posted. Employees shall be provided a physical copy of notice upon request.

- 6. The Department is not required to provide an accommodation which would cause an undue hardship; create a direct threat to the safety, security or health of any person; or which would fundamentally alter the nature or operation of business. The terms of collective bargaining agreements may be relevant to a determination of what accommodation, if any, may be made.
- 7. The determination of what accommodation, if any, is appropriate shall be made on a case-by-case basis. Action taken to reasonably accommodate an applicant or employee shall not necessarily constitute a precedent for another applicant or employee.
- 8. When the need for an accommodation is not obvious, the Department, before providing a reasonable accommodation, may require that the individual with a disability provide medical

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documentation of the need for accommodation. Medical documentation pertaining to the need for pregnancy related reasonable accommodations may be requested to the same extent documentation is requested for a disability if the request is job-related and consistent with the performance of the position and shall only provide:

- a. The medical justification for the requested accommodation;
- b. A description of the reasonable accommodation(s) medically advisable;
- c. The date the reasonable accommodation(s) became medically advisable; and
- d. The duration of the reasonable accommodation(s).

**G. Procedures for Requesting Reasonable Accommodation**

1. The applicant or employee is responsible for initiating a verbal or written request for reasonable accommodation to the interviewing officer or supervisor. The request shall include, among other matters:
  - a. Medical documentation of the need for accommodation unless the need is obvious;
  - b. The precise job-related limitations imposed by the individual's disability; and
  - c. Potential reasonable accommodations that could overcome those limitations.
2. The interviewing officer shall:
  - a. Take prompt action to accommodate an applicant with a disability to ensure equal opportunity in the application process, including appropriate adjustment or modifications of examinations, if:
    - (1) The need for accommodation is obvious; and
    - (2) The appropriate accommodation is readily identifiable and would not impose an undue hardship; or
  - b. Provide the applicant with an Applicant or Employee Request for Reasonable Accommodation, DOC 0238, if:
    - (1) The need for accommodation in the job application process is not obvious;
    - (2) The appropriate reasonable accommodation in the job application is not readily identifiable or appears to impose an undue burden; or
    - (3) The applicant has requested a reasonable accommodation to the work environment if hired.
3. The supervisor shall:
  - a. Take prompt action to accommodate the employee if:
    - (1) The need for accommodation is obvious;
    - (2) The appropriate reasonable accommodation is readily identifiable and would not impose an undue hardship; and

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- (3) The employee does not pose a direct threat; or
- b. Provide the employee with a DOC 0238 if:
  - (1) The need for accommodation is not obvious;
  - (2) The appropriate reasonable accommodation is not readily identifiable or appears to impose an undue hardship; or
  - (3) The employee appears to pose a direct threat.
- 4. The applicant or employee shall complete the DOC 0238 and submit the form to the interviewing officer or supervisor who shall promptly forward the form to the Chief Administrator.
- 5. The Chief Administrator shall:
  - a. Grant the request or take other appropriate action to accommodate the employee or applicant; or
  - b. Complete comments or recommendations on the DOC 0238; and
  - c. Forward the original request to the Office of Affirmative Action.
- 6. The Office of Affirmative Action shall:
  - a. Investigate the request.
  - b. Analyze the particular job involved and determine its purpose and essential functions.
  - c. Ascertain the precise job-related limitations imposed by the individual's pregnancy or disability and how those limitations could be overcome with a reasonable accommodation.
  - d. Identify potential accommodations and assess their effectiveness in enabling the individual to perform the essential function of the position.
  - e. Consider the preference of the applicant or employee to be accommodated.
  - f. Make appropriate recommendations to the Chief Administrator within 30 working days after receipt whenever possible.
  - g. Consult with the appropriate Deputy Director if the Chief Administrator does not concur in the recommendations. The Deputy Director shall determine what accommodation, if any, may be made.
  - h. Notify the applicant or employee and the Chief Administrator of the final decision. The notification shall include:
    - (1) For accommodation requests based on disability, appropriate instructions for filing a grievance if the applicant or employee is not satisfied with the decision. Applicants and employees shall be advised of the grievance procedures set forth in this directive.
    - (2) For accommodation requests based on pregnancy, the contact information for the Illinois Department of Human Rights if the applicant or employee believes the decision to be a violation of civil rights.

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7. The Chief Administrator shall take reasonable steps to ensure that:
  - a. Any accommodations recommended by the Office of Affirmative Action or directed by the Deputy Director are made.
  - b. All verbal and written requests for accommodation and the resulting facility action are documented.
  - c. An Annual Disability Accommodation Report, DOC 0237, is prepared and submitted to the Office of Affirmative Action at the end of each fiscal year.

**H. Grievance Procedures for Denied Requests for Accommodation based on Disability**

1. Grievances shall be in writing and on the Grievance - Discrimination Based on Disability or the Denial of a Request for Reasonable Accommodation, DOC 0430. The DOC 0430 must be completed, to the extent known, in order to be given proper consideration. The grievance shall include, among other matters:
  - a. The employment position the applicant or employee with a disability desires or holds;
  - b. Date and nature of the alleged discrimination;
  - c. If applicable, the reasonable accommodation denied and the estimated cost of such accommodation; and
  - d. Alternative accommodations which may provide accessibility and the estimated cost of such alternatives.
2. Applicants or employees should file grievances promptly, but no later than 180 days after the alleged discrimination occurred or the alleged denial of the request for reasonable accommodation. The grievance shall be submitted to:
 

ADA Coordinator  
Illinois Department of Corrections  
4-200 James R. Thompson Center  
100 W. Randolph Street  
Chicago, IL 60601

Attention: ADA Grievance
3. A Department ADA Coordinator shall ensure the grievance is investigated and reasonable efforts are made to resolve it. The investigation may include an interview with the grievant where determined necessary by the Department ADA Coordinator. The Department ADA Coordinator shall submit a written response to the grievant within 45 working days after receipt of the grievance whenever possible.
4. If the grievance is not resolved to the satisfaction of the grievant, the grievant may appeal the ADA Coordinator's decision to:
 

Director  
Illinois Department of Corrections  
1301 Concordia Court  
P. O. Box 19277  
Springfield, IL 62794-9277

Attention: ADA Appeal

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5. Appeals must be submitted in writing within 15 working days of the date of the Department ADA Coordinator's response. Written appeals should include:
  - a. A brief statement explaining the reasons for dissatisfaction with the Department ADA Coordinator's response;
  - b. A statement indicating whether or not the grievant wishes to appear before the person or persons appointed by the Director;
  - c. A copy of the DOC 0430 and the Department ADA Coordinator's response; and
  - d. Any other supporting materials.
6. The Director shall appoint a person or persons to review the appeal.
7. The grievant may be afforded the opportunity to appear before the appointed person or persons if so requested in the written appeal.
8. The appointed person or persons shall:
  - a. Review the DOC 0430 and the Department ADA Coordinator's written response;
  - b. Consider any additional evidence submitted by the grievant;
  - c. Conduct interviews and seek advice as deemed appropriate; and
  - d. Make recommendations to the Director in writing.
9. The Director shall approve, disapprove or modify the recommendations. The Director's written decision shall be sent to the grievant and to the Department ADA Coordinator. The Director's decision shall be final.

**I. Filing a Complaint for Denied Requests for Accommodation based on Pregnancy**

1. Complaints regarding denied requests for accommodation based on pregnancy or other violations of the Human Rights Act should be directed to the Illinois Department of Human Rights website at [www.illinois.gov/dhr/](http://www.illinois.gov/dhr/).
  2. To file a complaint, the applicant or employee must complete the Employment Complaint Information Sheet, CIS-E, which must be postmarked or received by the Illinois Department of Human Rights no later than 300 days after the date of alleged discrimination.
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